



The Comptroller General  
of the United States

Washington, D.C. 20548

Ratzenberger

## Decision

Matter of: Donna J. Williams - Waiver - Erroneous Credit of Annual Leave  
File: B-230366  
Date: June 27, 1988

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### DIGEST

An employee's annual leave account was erroneously overcredited due to the agency's error in calculating her service computation date and, thus, the number of hours of leave she was to accrue each pay period. Since there was a positive balance remaining in the employee's leave account after the agency adjusted her account to correct the administrative error, there was no overpayment of pay or allowances which may be considered for waiver under 5 U.S.C. § 5584.

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### DECISION

This action is in response to a request from Ms. Donna J. Williams for waiver of the government's claim to overcredited annual leave. For the reasons stated below, we find that the Federal Crop Insurance Corporation (FCIC) may not waive collection of the leave.

### BACKGROUND

Ms. Williams retired from military service with the Department of the Air Force in 1975, after having completed 20 years of service. She was hired on a career-conditional appointment by the Federal Crop Insurance Corporation, Department of Agriculture, on December 22, 1985. In 1987, Ms. Williams was advised that her service computation dates for leave accrual, retirement, and reduction in force were calculated in error by the personnel office since her years in military service had erroneously been included in the computation.<sup>1/</sup>

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<sup>1/</sup> Employees who receive military retired pay are entitled to civil service credit for these years of service only under certain circumstances. 5 U.S.C. § 6303 (1982).

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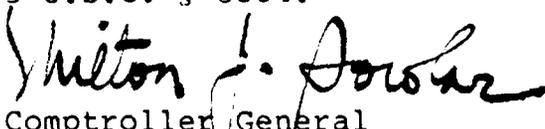
As a result of the error, Ms. Williams was placed in an incorrect leave earning category and credited with annual leave to which she was not entitled. After the error was discovered, Ms. Williams was advised that the agency was retroactively adjusting her annual accrual and leave balance by deducting 136 hours of annual leave, which left her a balance of 9 hours. The FCIC submitted a request on Ms. Williams' behalf for waiver of the government's claim and restoration of the excess annual leave accrued.

#### OPINION

Section 5584 of title 5, United States Code (Supp. III 1985), provides that a claim of the United States against an employee "arising out of an erroneous payment of pay or allowances" may be waived, in whole or in part, by the Comptroller General of the United States, or by the head of an agency in the case of an amount under \$500. Pay, as it is defined in the regulations implementing the waiver provision, includes "payment for accumulated and accrued leave." See 4 C.F.R. § 91.2(c) (1987).

However, in cases involving the erroneous crediting of annual leave, we have interpreted "erroneous payment" to mean a grant of leave which, when corrected, would result in a negative leave balance in the employee's annual leave account. Otherwise, there is no overpayment which may be considered for waiver under the waiver statute since the error is susceptible to correction through reduction of the employee's positive leave balance. See Daniel F. Cejka, 63 Comp. Gen. 210 (1984); Carl H. L. Barksdale, B-219505, Nov. 29, 1985; Patricia A. Bolstad, B-216378, Oct. 23, 1984.

In this case, the agency has determined that there was a sufficient balance of annual leave in Ms. Williams' leave account during the period when the excess leave was credited to cover the adjustment necessary because of the administrative error. Accordingly, since the corrective action did not result in a negative leave balance, there is no overpayment of pay which may be considered for waiver under 5 U.S.C. § 5584.

for   
Comptroller General  
of the United States